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IN THE

Supreme Court of the United States

OCTOBER TERM, 1985

UNITED STATES OF AMERICA,
Plaintiff

v.

STATES OF LOUISIANA,
TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA

ANSWER AND CROSS BILL
OF STATE OF ALABAMA TO AMENDED COMPLAINT

JOHN PATTERSON
Attorney General
Judicial Building
Montgomery, Alabama

WILLIAM B. O'BEAR
Assistant Attorney General
Judicial Building
Montgomery, Alabama

E. C. BOSWELL
Geneva, Alabama
Legal Advisor to
James E. Folsom,
Governor of Alabama

GORDON MADISON
Assistant Attorney General
Judicial Building
Montgomery, Alabama

NEIL METCALF
Geneva, Alabama
Representing James E.
Folsom, Governor of
Alabama

E. K. HANEY
Special Assistant Attorney
General
405 Noojin Building
Gadsden, Alabama

Of Counsel

SOLICITORS FOR THE
STATE OF ALABAMA

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NO. 11, ORIGINAL

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TEXAS, MISSISSIPPI, ALABAMA AND FLORIDA

ANSWER AND CROSS-BILL OF STATE OF ALABAMA TO AMENDED COMPLAINT

Now comes the State of Alabama and for answer to the amended complaint exhibited against it as plaintiff's fourth cause of action says as follows:

I.

The State of Alabama admits the allegations of paragraphs I, VI and VII of the amended complaint, but avers as to paragraph VI that no legal or equitable duty rests upon it to account to the United States of America for any sums of money received from or relating to the lands, minerals and other things underlying the Gulf of Mexico, seaward from the coast line of the State of Alabama, three marine leagues into the Gulf of Mexico.

II.

The State of Alabama denies the allegations of paragraphs II, IV and V of the amended complaint.

degree of north latitude crosses the Perdido river; thence east, to the western boundary line of the State of Georgia; thence along said line to the southern boundary line of the State of Tennessee; thence west, along the southern boundary line of the State of Tennessee, crossing the Tennessee river, and on to the second intersection of said river by said line; thence up said river to the mouth of Big Bear creek; thence by a direct line to the northwest corner of Washington county, in this state, as originally formed; thence southwardly, along the line of the State of Mississippi, to the Gulf of Mexico; thence eastwardly, including all islands within six leagues of the shore, to the Perdido river; . . . "

On the 2nd day of March, 1867 (14 Stat. 428), an act was passed by Congress entitled, "An Act to provide for the more efficient Government of the Rebel States." The Act declared that in these states, of which Alabama was one, there was no adequate protection for life or property; that it was for the federal government to enforce law and order until such time as state government could be established. These rebel states were divided into military districts and the President authorized to appoint military directors; these directors, or Governors, to have charge of their respective districts. These states were deprived of their representation in Congress until a proper state Constitution was adopted; that upon its approval by Congress, and upon the states' adoption of the Fourteenth Amendment to the Federal Constitution, they would be entitled to representation.

On March 23, 1867 (15 Stat. 2), the Congress passed an act entitled, "An Act supplementary to an Act entitled 'An Act to provide for the more efficient Government of the Rebel States,' passed March second, eighteen hundred and sixty-seven, and to facilitate Restoration."

This supplemental act required these states to adopt a state Constitution in conformity with the terms of the act; that after the state Constitution had been adopted by the Convention and ratified by the people, a copy should be sent to Congress, and, if the Congress approved, the state be declared entitled to representation, and her Representatives and Senators admitted to Congress.

On June 25, 1868 (15 Stat. 73), Congress passed an act entitled, "An Act to admit the States of North Carolina, South Carolina, Louisiana, Georgia, Alabama, and Florida to representation in Congress." This act recited that these states had adopted Constitutions in accordance with the Act of March 2, 1867.

The Constitution of Alabama, which was approved by Congress and which became operative and obligatory in Alabama on the 25th day of June, 1868, contained, in pertinent part, the same description as the Enabling Act and all other Constitutions of the State of Alabama, namely "thence eastwardly, including all islands within six leagues of the shore, to the Perdido river."

The Legislature of Alabama, by Act. No. 77, General and Local Acts 1956, page 111, construed the above historical boundary of Alabama by providing, in pertinent part, as follows:

> "The Director of Conservation, on behalf of the State, is hereby authorized to lease, upon such terms as he may approve, any lands or any right or any interest therein under any navigable streams or navigable waters, bays, estuaries, lagoons, bayous or lakes, and the shores along any navigable waters to high tide mark, and submerged lands in the Gulf of Mexico within the historic seaward boundary of this State, which is hereby declared to extend seaward six leagues from the land bordering the Gulf, for the exploration, development and production of oil, gas and other minerals, or any one or more of them, on, in and under such lands; and such lands or interests therein for such purposes shall be supervised and managed by the Department of Conservation."

By Act No. 158, General and Local Acts of Alabama 1956, page 24, the historical seaward boundary of Alabama is also declared to extend seaward six leagues from the land bordering the Gulf.

The description of Alabama's southern boundary does not designate the islands by name but includes all within six leagues of shore. The proper and only reasonable conclusion, therefore, is that the line runs southwardly along the line of the State of Mississippi to a point in the Gulf of Mexico six leagues from shore and thence eastwardly six leagues from and parallel to the shore to a point where said line intersects an extension of the Perdido River into the Gulf of Mexico, thence northwardly along the Perdido River extended to the point of beginning. All islands within this boundary are owned by the State of Alabama.

The State of Alabama further avers that the description of its southern boundary purports to define the exterior lines of a continuous territorial domain; and not to declare the respective boundaries of detached and separate tracts, divided from each other by the Gulf of Mexico and connected only by the bonds of political union; that the lines indicated constitute a continuous boundary, at no point diverging from Alabama's possessions, to traverse either lands or waters which Alabama does not own.

Further answering the amended complaint and the statement with respect to the amended complaint, the State of Alabama alleges that the Submerged Lands Act itself impliedly, if not expressly, gave congressional consent for the United States of America to be sued by any interested state relative to the establishment of states' rights under the Submerged Lands Act.

Wherefore, the State of Alabama prays that this its answer be taken as a cross-bill and that the United States of America be required to answer the same within thirty days and that upon a final hearing of this cause the court will order, adjudge and decree that the State of Alabama is the owner of or has the paramount rights in and to all lands, minerals, natural resources and other things, permanently or periodically covered by tidal waters up to but not above the line of mean high tide and seaward from the coast line, as defined by the Submerged Lands Act, three marine leagues into the Gulf of Mexico.

The State of Alabama further prays, whether by cross-bill or otherwise, that its southern boundary be declared by the court to be a line which is six leagues

from and parallel to the shore as above described in paragraph IV of this answer, and that the claim of the United States be denied.

If the State of Alabama has mistaken the relief to which it is entitled, then it prays for such other, further and additional relief as may seem meet and proper to the court.

JOHN PATTERSON
Attorney General of Alabama

WILLIAM G. O'REAR
Assistant Attorney General

GORDON MADISON
Assistant Attorney General

E. K. HANBY
Special Assistant
Attorney General

E. C. BOSWELL
Legal Advisor to
James E. Folsom,
Governor of Alabama

NEIL METCALF
Representing James E.
Folsom, Governor of
Alabama

Of Counsel

PROOF OF SERVICE

I, John Patterson, as Attorney General of Alabama, certify that on the ..... day of December 1957, I mailed copies of the foregoing answer and cross-bill to the Attorney General and the Solicitor General of the United States, respectively, at the Department of Justice Building, Washington, D. C., and to the Attorneys General of the States of Texas, Louisiana, Mississippi and Florida.

JOHN PATTERSON
Attorney General of Alabama